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In re Application of	:	DECISION ON
GRIEBEL et al	:	
PCT No.: PCT/DE2003/003637	:	
Application No.: 10/535601	:	PAPERS FILED
Int. Filing Date: 29 October 2003	:	
Priority Date: 19 November 2002	:	
Attorney's Docket No.: 026418	:	UNDER 37 CFR 1.42
For: METHOD FOR THE INTRODUCTION OF AN	:	
INTEGRATED ... EXPANSIVE BODY	:	

This is a decision on the declaration filed 19 May 2005, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 19 May 2005, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), and an executed declaration as required by 35 U.S.C. 371(c)(4).

The declaration is signed by Vera STEINHAEUSER as heir/legal representative to deceased inventor Frank STEINHAEUSER.

DISCUSSION

The declaration is unacceptable at this time because it is not clear that Vera STEINHAEUSER is the sole heir or just the legal representative for the deceased inventor, Frank STEINHAEUSER. (see MPEP § 409.01(a)).

That is, there may be other heirs who are required to also sign the declaration. The declaration must indicate that she is the sole heir for the deceased inventor or is the legal representative (not including the term heir next to it so as to avoid confusion) for the deceased inventor, Frank STEINHAEUSER, to accept the application under 37 CFR 1.42.

In addition, the declaration did not satisfy 37 CFR §1.497(b)(2) because it does not state the citizenship, residence, and mailing address of both the heir(s) and the deceased inventor as required.

If Vera STEINHAEUSER has been appointed as the legal representative for the deceased inventor, 37 C.F.R. §1.497(b)(2) indicates that "[i]f the person making the oath or the declaration or any supplemental or oath or declaration is not the inventor (§§1.42, 1.43, or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state (the inventors citizenship and so on). If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative." (see MPEP § 409.01)


In this instance, it is unclear if the residence and citizenship is of the deceased inventor or legal representative. If it is of the deceased inventor then the residence and citizenship of the legal representative have not been provided as required under 37 C.F.R. §1.497(b)(2).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is not accepted.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.42." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the office of PCT Legal Administration.



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